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JUL 29 1994

July 29, 1994

VIA HAND DELIVERY

Mr. William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: CS Docket No. 94-48

Dear Mr. Caton:

Transmitted herewith on behalf of United States Satellite Broadcasting Company, Inc. (USSB), are an original and four copies of its "Consolidated Comments and Reply Comments" in the above-referenced proceeding.

Should any question arise concerning this matter, please communicate with this office.

Very truly yours,

FLETCHER, HEALD & HILDRETH

*Patricia A. Mahoney*  
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Counsel for  
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JUL 29 1994  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the Matter of )  
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Implementation of Section 19 )  
of the Cable Television )  
Consumer Protection and )  
Competition Act of 1992 )  
 )  
Annual Assessment of the )  
Status of Competition in the )  
Market for the Delivery of )  
Video Programming )

CS Docket No. 94-48

Directed to: The Commission

CONSOLIDATED COMMENTS AND REPLY COMMENTS

UNITED STATES SATELLITE  
BROADCASTING COMPANY, INC.

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July 29, 1994

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

JUN 29 1994

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**CONSOLIDATED COMMENTS AND REPLY COMMENTS  
SUMMARY**

United States Satellite Broadcasting Company, Inc. ("USSB"), herein submits its Comments<sup>1</sup> and Reply Comments in the above-captioned proceeding. In its Notice of Inquiry, FCC 94-119 (released May 19, 1994) (NOI), in this proceeding, the Commission seeks information on the status of competition in the market for the delivery of video programming. Herein, USSB responds to the specific questions in the NOI concerning the high power Direct Broadcast Satellite (DBS) service and provides information to the Commission on the initiation of the new high power DBS service. USSB also responds generally and specifically to comments filed by other parties in this proceeding.

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<sup>1</sup>USSB filed an Emergency Motion for Extension of Time in which to file its Comments on June 28, 1994. To the best of USSB's knowledge, there was no action taken on its Motion. Thus, USSB is submitting its Consolidated Comments and Reply Comments on this date.

USSB demonstrates that high power DBS promises to be a formidable competitor to cable. Consumers all across the continental U.S., in areas served and unserved by cable, in rural, urban, and suburban areas, will now have access to a multichannel video service offering a far greater variety of programming services than most, if not all, cable systems in the country at prices competitive to cable.

Because of the agreed upon shared transmission and receive system and the existing programming arrangements, USSB and DirecTv have ensured the consumer the maximum diversity of programming possible from the two high-power DBS service providers. USSB's and DirecTv's existing programming arrangements also ensure that there will be at least two competing high power DBS service providers for the foreseeable future.

In the NOI in this proceeding, at 5, ¶11, the Commission recognized that the outcomes of several other ongoing proceedings could affect competition in the multichannel video programming marketplace and specifically referenced MM Docket No. 92-265, the program access proceeding, as one such proceeding. The Commission emphasized that it does not "intend to consolidate any issues that may be pending in those proceedings within this inquiry." Notwithstanding this statement, DirecTv, Inc., and the National Rural Telecommunications Cooperative (NRTC) have devoted substantial portions of their comments in this proceeding to

arguments and allegations they have already raised in MM Docket 92-265.

USSB, mindful of the Commission's expressed purposes in the NOI, does not repeat herein the issues and matters that have already been presented to the Commission in MM Docket 92-265. The Commission should, however, consistent with its discussion of the scope of this proceeding, strike the following pages from DirecTv's Comments, i, 2-13, 18-22, and NRTC's Comments, i-iii, 3, 8-12, 20-25, 27-28. If those pages are not stricken but are instead given any consideration, USSB offers herein, and the Commission should consider, the specific responses of USSB to the Comments of DirecTv and NRTC in this proceeding concerning matters at issue in MM Docket 92-265.

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7	LETTERS FROM MEMBERS OF U.S. SENATE AND HOUSE OF REPRESENTATIVES

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
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Directed to: The Commission

**CONSOLIDATED COMMENTS AND REPLY COMMENTS**

United States Satellite Broadcasting Company, Inc. ("USSB"), by its attorneys, hereby respectfully submits its Comments<sup>1</sup> and Reply Comments in the above-captioned proceeding:

In its Notice of Inquiry, FCC 94-119 (released May 19, 1994) (NOI), in this proceeding, the Commission seeks information on the status of competition in the market for the delivery of video programming. Most of the video programming services encompassed by the NOI have been established for many years. However, the high-power Direct Broadcast Satellite service (DBS), has been introduced to the consumer in ten markets and states during the comment period in this proceeding and will continue to be introduced in new markets and states through October, 1994. By

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<sup>1</sup>USSB filed an Emergency Motion for Extension of Time in which to file its Comments on June 28, 1994. To the best of USSB's knowledge, there was no action taken on its Motion. Thus, USSB is submitting its Consolidated Comments and Reply Comments on this date.

the end of October, 1994, the system will be available nationwide.

USSB is pleased to respond to the NOI and to provide information to the Commission on the initiation of the new high power DBS service. USSB also responds below generally and specifically to comments filed by other parties in this proceeding.

#### **I. PRELIMINARY STATEMENT**

USSB, a subsidiary of Hubbard Broadcasting, Inc. (HBI), has been licensed by the FCC to operate a DBS system. USSB filed its application to provide DBS service in 1981, and since that time USSB has worked to make DBS a reality. On June 17, 1994, high power DBS service was formally initiated with the sale of the first Digital Satellite System (DSS™) receiver in Jackson, Mississippi. DBS service is being provided by DirecTv, Inc. (DirecTv) and USSB to the entire continental U.S. from a high power Ku band satellite at 101° West Longitude (WL) (DBS-1). Ownership of the DBS-1 satellite is shared by DirecTv's affiliated company, Hughes Communications Galaxy, Inc. (Hughes), and USSB.<sup>2</sup> The transmission and encryption systems are also shared; thus, the consumer is able to access both USSB's and DirecTv's programming using the same satellite dish and receiver with equal ease. USSB owns five of the sixteen transponders on DBS-1 and Hughes owns the other eleven. A second satellite to be

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<sup>2</sup>The NOI at 13, ¶30, incorrectly states that USSB has leased five transponders on the General Motors/Hughes satellite.



located at 101°WL (with another sixteen transponders) (DBS-2), owned solely by Hughes, is expected to be launched on August 3, 1994.

DirectV is a wholly-owned subsidiary of Hughes Aircraft Company and an affiliate of Hughes Communications Galaxy, Inc. DirectV is a unit of GM Hughes Electronics Corp., a wholly owned subsidiary of General Motors Corp. (GM). In its recently filed Comments in this proceeding, DirectV explained that it has a "marketing arrangement" with the National Rural Telecommunications Cooperative (NRTC). NRTC has an exclusive arrangement with DirectV whereby NRTC has reportedly paid DirectV<sup>3</sup> \$125,000,000.00 for the exclusive right to market and distribute DirectV programming in certain rural areas (where NRTC has in turn sold exclusive DirectV franchises). USSB has no such exclusive distribution arrangements with NRTC or any other distributor and in fact has an open retail policy.<sup>4</sup>

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<sup>3</sup>NRTC has acknowledged in this proceeding that it has paid in excess of \$100,000.00 to DirectV.

<sup>4</sup>USSB's open retail policy states that any satellite or consumer electronics retailer who qualifies as a DSS™ dealer for RCA or other brands, abides by USSB's policies and procedures, and maintains USSB's standards of customer service excellence will be able to offer USSB's programming packages in conjunction with DSS™ equipment sales. NRTC affiliates, consumer electronics dealers, and home satellite retailers who wish to take advantage of USSB's open retail policy can call USSB's toll-free dealer hot line. USSB has widely publicized its open retail policy and its toll-free dealer hot line.

## **II. COMMENTS IN RESPONSE TO SPECIFIC QUESTIONS CONCERNING HIGH-POWER DBS SERVICE**

In response to the specific questions posed for the high power DBS service, USSB provides the information below.

- (a) What is the total estimated subscriber base for each operator? What is the basis for this estimate?

The Hughes/USSB satellite at 101°WL reaches the entire 48 contiguous states (hereinafter referred to as the continental United States or U.S.). Thus, the potential subscriber base is all television homes in the continental U.S. (at least 94 million)<sup>5</sup>

- (b) What is the total estimated channel capacity of each operator? What are the plans of each operator to increase the digital compression ratio from the initial ratio used at the time of launch (so as to offer more channels at a later date)?

USSB owns five of the sixteen transponders on DBS-1 (which was launched December 17, 1993), together with 5/16 of the satellite and associated hardware, under the terms of a Satellite Payload Purchase Agreement entered into with Hughes in June of 1991. Hughes owns the remaining transponders on DBS-1. As noted above, Hughes is scheduled to launch a second satellite, DBS-2, on August 3, 1994. Hughes will own all 16 of the transponders on DBS-2. All 27 of the Hughes transponders will be operated by

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<sup>5</sup>USSB agrees with DirecTv's note 21 in its Comments of DirecTv (page 14) in this proceeding concerning the potential adverse impact that local zoning ordinances and similar household access restrictions related to the residential purchase and placement of small dishes could have on the development and growth of DBS.

Hughes' affiliate DirecTv.<sup>6</sup>

Currently, USSB is offering 20 different programming services, plus its Channel 999 Background Programming Channel, which includes some public service programming. Improvements in encoder equipment and software, including full implementation of MPEG-2 compression and statistical multiplexing, will make it possible to add five to eight full-time services and/or many dozen part-time services over the next several months. However, the ratio of USSB's channels to DirecTv's channels will remain unchanged. As DirecTv noted in its Comments of DirecTv, Inc. in this proceeding at 15, the channel capacity can also be increased by increasing the power of the satellite transponders.

- (c) How does each operator market its services? Are current marketing efforts targeted equally to potential subscribers in areas served by cable systems as well as to areas unserved by cable systems? If not, why not?

USSB's business and marketing plans reflect its basic philosophy that DBS is an important form of broadcasting and, as such, should be available to any and every home that desires to receive it. Thus, USSB and DirecTv agreed to develop and share a single transmission and reception system for DBS service at the 101°WL orbital location -- one which would be simple and easy for consumers to buy, install, and use. The Digital Satellite System (DSS™) that has been developed is a consumer product that is presently being marketed by RCA and sold in retail home

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<sup>6</sup>Hughes recently applied to the FCC for authority to construct and launch DBS-3. See DirecTv's Comments in this proceeding at 15.

electronics, appliance, and satellite stores, including Sears, Best Buy, and Circuit City. At full national roll-out later this year, there will be nearly 10,000 retail locations across America stocking DSS™ equipment and offering USSB and DirecTv programming. See Exhibit 1.

USSB's current marketing efforts are concentrated in the initial markets and states where the DSS™ system has been introduced and is available. As of this date, the DSS™ system and USSB's and DirecTv's services have been launched in the following markets: Jackson, Mississippi; Shreveport, Louisiana; Little Rock, Arkansas; Albuquerque, New Mexico; Tulsa, Oklahoma; Indianapolis, Indiana; Winston-Salem, North Carolina; Montgomery, Alabama; Roanoke, Virginia; and Greenville, South Carolina. USSB anticipates that additional cities and states will be added through October 1994, by which time the system should be available nationwide.

Ultimately USSB, like DirecTv, will market its service through national, regional, and independent consumer electronics retail stores, and satellite TVRO dealers. USSB will market its service to cable subscribers and non-subscribers alike and will market vigorously in rural, suburban, and urban areas. Every channel of programming that USSB offers will be available everywhere in the continental U.S. and at the same high-value price.

At least through the end of 1994, every consumer who purchases a DSS™ system from whatever source and wherever located

(rural, urban, suburban, cable, non-cable) will receive free, for one month, USSB's entire package of programming.<sup>7</sup> This allows consumers to sample all of USSB's programming so that they can select the programming that best suits their needs and tastes.<sup>8</sup>

USSB's programming complements in substance and price the more extensive offerings provided by Hughes' co-located DirecTv service. The equipment owned by the consumer can tune between USSB and DirecTv channels as easily as a conventional TV set moves between local television stations. There will be no minimum purchase or buy-through requirements.

- (d) What is the projected subscriber level for each operator within one year of launch of service? Within three years? What is the basis for these projections?

Response to high power DBS service as offered by USSB and DirecTv and to the DSS™ system in the markets where the system has been introduced has been tremendous. See Exhibit 1 hereto. As Communications Daily reported on July 19, 1994, in an article, "Shortages Already? Demand For DirecTv/USSB Systems Exceeds Supply in First Month," the demand for the DSS™ system has outstripped supply. The article quotes Cowboy Maloney's VP Edward Maloney, who introduced the product in Jackson, Mississippi on June 17, as saying, "Every time we get units in, they're sold out the same day," and "I would have no qualms about taking a shipment of 5,000 units right now because the demand is

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<sup>7</sup>The dealer or consumer only needs to advise USSB that it has purchased the DSS™ system.

<sup>8</sup>Early indications are that consumers are appreciative of this opportunity.

that big."

Multichannel News, too, has reported "Stores Can't Keep Dishes on Shelves," in an article in the July 25, 1994 edition. That article notes that "Thomson Consumer Electronics Inc. can't make enough of the \$700 and \$900 home-receiving units to satisfy consumers." The article also notes that most sellers say they could move many more units than they have received so far and are able to demand deposits or even full prepayment to keep consumers on waiting lists. One store in Albuquerque has received calls from anxious consumers from as far away as California. Another store reports that it has not kept any units in the store for longer than an hour.

It is estimated that 400,000-600,000 DSS™ units will be available for sale in 1994. USSB predicts that all units available for sale this year will be sold this year. USSB's market research suggests that almost 40% of all U.S. TV households might receive some programming by means of DSS™ by the year 2001. Thomson Consumer Electronics, which manufactures the RCA DSS™ system, has stated that it conservatively anticipates a customer base of some 10 million DSS™ households by the year 2000.

After one year of service, given manufacturing and marketing constraints, it is likely that there will be at least one to two million DSS™ households. Based upon research and market trends, USSB conservatively projects that there will be five to ten million DSS™ homes after three years.

To date, USSB's experience has been that a majority of the consumers who have sampled USSB's programming have signed up for USSB's entire package of programming.

- (e) In what circumstances are multiple decoders required? Is the current cost of installation and equipment an impediment to attracting subscribers?

The same decoder is used to obtain DirecTv and USSB programming in each subscribing household. Multiple decoders are only required if multiple television sets are in use at the same time and the viewers want to view different channels at the same time (a decoder would then be necessary for each TV set; a single 18" DBS antenna can be used).

Based on USSB's research and experience, USSB believes that the current costs of installation and equipment are not an impediment to attracting subscribers. It should be noted that the DSS™ system is being introduced at about half the price at which the video cassette recorder was introduced in 1977 to the consumer. Comparing the impact of the DSS™ system to the VCR, Joseph P. Clayton, Executive Vice President of Thomson Consumer Electronics, has said "RCA DSS™ hardware and associated products and services should grow at a pace that could rapidly eclipse the three-year time frame in which the VCR reached \$1 billion in retail sales." First year industry sales of the VCR in 1977 were some 200,000 units.<sup>9</sup>

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<sup>9</sup>In addition to improving the picture and sound quality of any television set, DSS™ is "forward-compatible," enabling consumers to take advantage of emerging video technologies and capabilities such as 16x9 widescreen and HDTV broadcasts. This forward compatibility makes the DSS™ system an investment that

DSS™ hardware is easy to install. The dish can be installed in almost any outdoor location as long as it has a direct line of sight to the satellite.<sup>10</sup> Consumers can install their own dish with a "do-it-yourself" installation kit available for \$69.95 at any authorized DSS™ dealer. The price for basic professional installation is approximately \$150-200.

USSB has found that approximately half of the consumers who have purchased the DSS™ system are installing their own DSS™ hardware without any reported problems. Thus, USSB does not believe that the cost of the installation or the equipment is an impediment to attracting subscribers. The only factor having the affect of limiting subscribers at the present time is the supply of DSS™ hardware. As DirecTv has noted, there is currently a clear consumer demand for DSS™ equipment.

It is also anticipated that the cost of the DSS™ system will drop after a few years to approximately one half of what it is currently. USSB's research shows that a higher percentage of consumers are likely to purchase the system as its price drops. Almost 40% of respondents in one study indicated they would be likely to purchase a DBS system after time for \$300 or more, and almost 60% expressed at least some interest in purchasing one.

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will appreciate over time.

<sup>10</sup>All programming is received from one position in the sky and the dish is equipped with a circular-polarized reception system. Thus, the dish remains in one place, minimizing maintenance and eliminating the need for satellite tuning and repositioning.



- (f) How will prices charged by each operator for this service compare with the prices charged for cable service?

The prices charged by DirecTv and USSB for their services are extremely competitive to cable. Unlike cable, which is sold in rigid packages and tiers, DBS programming is structured so that it is more flexible for consumers, who will have more control over their subscription programming and only have to spend the amount they choose to spend for TV. Together USSB and DirecTv currently offer approximately 75 channels and will expand to approximately 150 channels later this summer. No services are duplicated, so that the DBS consumer has more program choices than are available to most if not all cable consumers. Unlike cable, the DSS™ system delivers this programming with digital video and CD-quality sound.

The RCA DSS™ receiver is operated by a remote control that allows consumers to select programming by changing channels or using a simple "point and select" system to access an on-screen menu. Viewers simply move a cursor to select the desired channels. The system also features an innovative parental control system that allows DSS™ owners to lock out specific channels, establish rating limits, and control pay-per-view spending.

USSB will offer viewers up to 30 channels, including multichannel versions of premium services such as five distinct channels of HBO, three distinct channels of Showtime, two distinct channels of The Movie Channel, three distinct channels of Cinemax, and FLIX, as well as a selection of basic channels,

including Lifetime, Comedy Central, Nickelodeon/Nick at Nite, MTV, VH-1 and All News Channel. USSB subscription rates range from \$7.95 to \$34.95 per month. A more detailed breakdown of packages and pricing is found in Exhibit 2 hereto.

DirectV will ultimately offer consumers at least 150 channels of popular programming, including the premium services of Encore and the Disney Channel, popular cable services, such as CNN, ESPN, TBS, and USA Network, 40-50 channels of first run pay-per-view movies starting as often as every 30 minutes, sports programming (including pay-per-view events), special interest programming, plus 30 different, commercial-free digital audio channels. Because the DSS™ receiver operates similarly to an A/B switch, local network affiliate and independent channels are readily accessed through a broadcast antenna or, where available, cable feed. A special programming package from DirectV consisting of the major broadcast networks is available for customers who live in areas where they cannot receive local broadcast or cable service. Subscription rates for DirectV will range from \$21.95 to \$29.95 per month. Hit movies cost only \$2.99; sports programming and other special events will be competitively priced. The premium services of The Disney Channel and Encore are included in DirectV's basic package at no additional cost.

In view of the vast and numerous differences between what the consumer can obtain by cable and what USSB and DirectV offer over the shared DSS™ system, it is extremely difficult to compare

the two. USSB is not aware of any cable system that offers the consumer the number and variety of services offered by USSB and DirecTV together. USSB's market research reflects that 87% of persons who indicated that they were at least somewhat likely to purchase a DBS receiver for \$300 or more indicated that "variety of programming" was a "very important" factor in their decision.

It should be noted with respect to this issue that DirecTV's response in its June 29, 1994 Comments is misleading and easily contradicted by DirecTV's own public statements. DirecTV charges, without any supporting showing, in its Comments and other filings at the Commission, that purchased together:

USSB and DirecTV's programming packages will almost certainly cost more than the single integrated programming packages offered by either cable operators or Primestar. Consumers will also be denied the economies of "one-stop shopping" offered by cable operators and Primestar, and instead must deal with two customer service centers, two bills and potentially two sales staffs in order to obtain the single complement of program offerings equivalent to that offered by cable providers.

DirecTV Comments at 18.

Although DirecTV has been making this same and similar (false) allegations for over a year, DirecTV has never offered any example or any comparison of actual rates to demonstrate or even suggest that there is any support for its assertion. USSB's and DirecTV's program offerings and rate packages have been publicly available and widely reported for several months. It would not have been at all difficult for DirecTV to have compared the program offerings of various cable operators to those of

DirectV and USSB. USSB has made such comparisons and has found that the DBS program prices and offerings are competitive with cable, as they were designed to be.<sup>11</sup> Moreover, together USSB and DirectV offer more cable program services than most, if not all, cable systems in the country. Furthermore, unlike most cable systems, which offer only one channel of each premium service (e.g., HBO, Showtime, and Cinemax), on DBS the consumer will have **five channels of HBO** (HBO, HBO 2, HBO 3, HBO West, and HBO 2 West), **three channels of Cinemax** (Cinemax, Cinemax 2, and Cinemax West), **three channels of The Disney Channel** (East and West), **seven channels of Encore**, **two channels of The Movie Channel**, and **three channels of Showtime** (Showtime, Showtime 2, and Showtime West).<sup>12</sup>

In an "Ex Parte Response of Viacom International Inc.," submitted July 14, 1994, in MM Docket 92-265, **Viacom** compared the

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<sup>11</sup>In fact, the promotional materials used by RCA to sell the DSS™ system include a brochure with the prices of DirectV and USSB program services (a copy of which is included hereto as Exhibit 3) that invites the consumer to "use this handy comparison chart to assist in a line-by-line comparison with your cable programming and pricing." Obviously RCA believes that the consumer will conclude that DBS offers a better value than cable.

<sup>12</sup>By comparison, the cable system in Fairfax County, Virginia, which is one of the largest, if not the largest (by number of channels of programming) systems in the country, does offer three channels of HBO, and two channels of Cinemax and Showtime; but Media General charges subscribers **higher prices for fewer channels** than does USSB. Fairfax County's cable system does not offer the following features that the consumer will be able to obtain from USSB and DirectV: ENCORE (up to seven theme channels); 40 pay-per-view movie channels (Fairfax County has eight); two channels of The Disney Channel and two channels of The Movie Channel (Fairfax County has only one of each); and FLIX.

prices of 12 cable operators from across the country to the prices at which DirecTv and USSB will offer the same or comparable programming services and **demonstrated that in each case a cable subscriber would pay well in excess of what a DBS subscriber would pay.**<sup>13</sup> In any comparison of the programming offered by USSB and DirecTv over the DSS™ system to the programming offered on cable, the DBS service offered by USSB and DirecTv is competitive to cable.<sup>14</sup>

Notwithstanding their Comments in this and other proceedings at the Commission, officials of both DirecTv and NRTC have publicly boasted that they are perfectly pleased with their programming. For example, **NRTC's CEO Bob Phillips** has reportedly stated:

"We will be offering the Personal Choice I and II packages, and the a la carte and pay-per-view offerings DirecTv has because we are DirecTv in our areas. We'll also have some special packages like 'Best of Cable' that we'll offer in our territories."

"We're operating in this market just like in the C-band market [with Rural TV], with the members free to price however they wish in their territory".... "Based on what the members and affiliates have told me, because they're out there talking to the customers

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<sup>13</sup>For convenience, a copy of the chart Viacom used for the comparison is included in Exhibit 4 hereto.

<sup>14</sup>DirecTv has indicated that its agreement with NRTC gives local NRTC franchisees the right to set their own rates. Obviously, USSB has no control over and cannot be responsible for the rates NRTC franchisees choose to set. USSB will sell its programming at nationally uniform rates.

every day, **they're really thrilled with the lineup we have.**"

Reported in "DirecTv and the NRTC: Partners in Rural America," TVRO (June 1994) at 25 (emphasis added). See Exhibit 5 hereto. Similarly, **DirecTv's President Eddy Hartenstein** has reportedly stated publicly:

"We're happy with the programming lineup we have.... I'm not sure it makes a whole lot of sense for us to carry HBO at the same time USSB is carrying HBO. We kind of like our programming lineup right now."

(id.). These public statements are difficult to reconcile with DirecTv's and NRTC's activities and representations at the Commission and on the Hill.

Similarly irreconcilable are DirecTv's statements to the Commission about the obstacles to consumers of dealing with two service providers,<sup>15</sup> (two bills, two service centers, etc.) and DirecTv's President Hartenstein's comments to the public (in an article in a magazine distributed to satellite dealers) that:

"We're all on the same side here"....  
"DirecTv and USSB are trying to create an industry. To create an industry, **it not only has to be priced and presented in a way that creates value, it needs to be presented to consumers in a very seamless way.**

"We fully plan to, when a consumer calls in

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<sup>15</sup>It should be noted that consumers with C-Band satellite dishes have been dealing with multiple program providers and distributors for years. Consumers with one telephone but different local and long distance telephone service providers are also accustomed to receiving two bills and dealing with two customer service centers. Thus, USSB feels confident that consumers should have no difficulty with two bills, two customer service centers, and two sales staffs for DBS.

to 1-800-DIRECTV and asks for HBO, tell him about all of our programming services and packages and do our best to convince him it creates value. But, at the end of the day, if he wants ours and still wants HBO, **we'll push a button and transfer him over to USSB to sign him up for HBO.** USSB has indicated they will do the same thing. **I can live with that,** provided we make it easy for the consumer."

See Exhibit 5 hereto. Obviously DirecTv and USSB will each make sure that their product is priced competitively, that the consumer recognizes the benefits and value of their respective services, and that the service is delivered to the consumer through the seamless DSS™ system.

- (g) Are prices nationally uniform, or do they vary depending upon the location of the subscriber? If they vary, what are the reasons for the pricing differentials?

USSB sells its services at nationally uniform rates, so that all consumers benefit from USSB's determination to offer rates that are competitive to cable and other competing services. Under USSB's pricing, one set of consumers does not subsidize (or is not subsidized by) another group of consumers. Since DirecTv's agreement with NRTC gives local NRTC franchisees the right to set their own rates for DirecTv programming. DirecTv's prices may not be uniform nationally.

- (h) How long is it likely to take for this service to serve as a competitive alternative to cable? What is the basis for this projection?

High power DBS service is being provided by only two service providers: DirecTv and USSB. Their programming is carried on their jointly owned satellite. The satellite's footprint covers

the entire continental United States (the 48 contiguous states), and DirecTv and USSB serve the exact same market. The programming of both DirecTv and USSB is received by the consumer over the same DSS™ receive system. The consumer uses the same 18-inch satellite dish, the same dedicated digital receiver, the same interactive remote control, the same on-screen menu system, the same program guide, and the same access card ("smart card") to receive both USSB's and DirecTv's programming together.

Since DirecTv and USSB offer different and complementary program services through the same facilities to the same market, there is competition between the two competing services, and the consumer has the maximum diversity of program choices. To the best of USSB's knowledge, there is no cable system that offers programming and value comparable to what USSB, DirecTv, and RCA/Thomson offer with the high power DBS system. The equipment costs are reasonable--as shown by comparison to the price consumers paid in 1977 when the VCR was introduced. Thus, USSB anticipates that, once the DSS™ equipment is nationally available, the high power DBS service will be a competitive alternative to cable. USSB's experience to date has been that there is a high demand for high power DBS as an alternative to cable.

### **III. GENERAL COMMENTS**

As can be seen by USSB's responses above to the specific questions concerning high-power DBS, high power DBS promises to be a formidable competitor to cable. Consumers all across the



continental U.S., in areas served by and unserved by cable, in rural, urban, and suburban areas, now have access to a multichannel video service that offers a far greater variety of programming services than most, if not all, cable systems in the country at prices competitive to cable.

USSB and DirecTv are the only entities providing high power DBS service. USSB, like DirecTv, does not see Primestar offering any viable, effective competition to cable in the future.<sup>16</sup>

Existing programming arrangements of USSB and DirecTv ensure that there is no overlap or duplication of services, so that the consumer has the maximum diversity of programming possible from the two high-power DBS service providers. USSB's and DirecTv's existing programming arrangements also ensure that there will be at least two competing (but complementary) high power DBS service providers.

In the NOI in this proceeding, at 5, ¶11, the Commission recognized that the outcomes of several other ongoing proceedings could affect competition in the multichannel video programming marketplace and specifically referenced MM Docket No. 92-265, the program access proceeding, as one such proceeding. The Commission emphasized that it does not "intend to consolidate any issues that may be pending in those proceedings within this inquiry." Notwithstanding this statement, DirecTv and NRTC have

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<sup>16</sup>Moreover, as DBS World reports in its July 15, 1994 issue, USSB and DirecTv together -- and even DirecTv alone -- offer a far greater variety of services than Primestar. See Exhibit 6 attached hereto.